IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 15241 OF 2007(M)

PETITIONER:

KORA ABRAHAM,
AGED 65 YEARS, S/O. KOARA (LATE), CHEROLIKKAL HOUSE, PADINJATTINKARA P.O., KADAPLAMATTOM, KOTTAYAM DISTRICT, PIN - 686 571.

BY ADV. SRI.C.S.MANU
SRI.S.K.PREMRAJ
SRI.ANOOP JOSEPH
SRI.ANOOP.V.NAIR
SRI.ABHILASH AKBAR

RESPONDENTS:
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1. STATE OF KEREALA REPRESENTED BY SECRETARY TO GOVERNMENT OF KERALA, DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT, THIRUVANNATHAPURAM.

2. THE SUPERINTENDENT OF POLICE, KOTTAYAM.

3. THE CIRCLE INSPECTOR OF POLICE, KOTTAYAM EAST, KOTTAYAM DISTRICT.

4. THE S.I. OF POLICE, AYIRKUNNAM POLICE STATION, KOTTAYAM DISTRICT.

5. SASIDHARAN NAIR, POOVAKUZHIYIL HOUSE, PARAMPUZHA, KOTTAYAM DISTRICT.

6. VENU, KUZHIYATTIL HOUSE, THIRUVANCHIYOOR, KOTTAYAM DISTRICT.

7. THANKA, KANJIRAMATTOM HOUSE,
THIRUVANCHIYOOR, KOTTAYAM DISTRICT.

8. BIJU, DHANYA NIVAS,
PARAMPUZHA, KOTTAYAM DISTRICT.

9. THULASIPRASANNAKUMAR,
PARUTHIKUZHI VALEEL HOUSE,THIRUVANCHIYOOR,
KOTTAYAM DISTRICT.

10. THANKACHAN,
KOZHIMATTATHARAYIL HOUSE, PARAMPUZHA,
KOTTAYAM DISTRICT.

R5 TO R10 BY ADV. SRI.J.KRISHNAKUMAR
GOVERNMENT PLEADER SRI. P.A. SALIM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	TRUE COPY OF THE LICENSE BEARING NO. 1/2007-08 DATED 9.4.2007 ISSUED BY THE ASST. EXCISE COMMISSIONER, KOTTAYAM TO TE PETITIONER AND THE TWO OTHERS.
EXT.P2	TRUE COPY OF THE PETITION DATED 10.5.2007 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
EXT.P3	TRUE COPY OF THE RECEIPT BEARING NO. 40/07 DATED 10.5.2007 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.

P.R. RAMAN & K. HEMA, JJ.

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W.P.(C) NO. 15241 of 2007

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DATED THIS, THE 5th DAY OF JUNE, 2007.

J U D G M E N T

Raman, J.

Petitioner is one of the licensees of Toddy Shop No. 43/2007-08 under the Pampady Excise Range. Ext. P1 is the copy of the license issued to him. According to him, the shop is functioning in Building No. AP XII 698 A at Tiruvanchoor. While so, Respondents 5 to 10 and their henchmen started obstructing the functioning of the toddy shop and they are conducting a dharna in front of the toddy shop, preventing the customers from coming inside. It is alleged that in spite of complaints made, police are not giving necessary protection to the petitioner for running the shop in accordance with the license.

2. Respondents 5 to 10 filed a counter affidavit denying the allegations made in the writ petition. According to them, they have not done any act in violation of law. It is their case that the conduct of the shop affected the peaceful atmosphere of the locality and hence people resorted to strike in a peaceful manner. The earlier toddy shop was closed and the

present one is conducting in another building. According to them, the shop is on the side of the panchayat road and the Ayswarya Kudumba Sahaya Sangam - a Kudumbasree Unit - in the locality. They have made complaints to the District Collector against the functioning of the toddy shop there, since it is a residential locality and even it causes hindrance to the peaceful living of the local public. It is further alleged in the counter affidavit that when a dharna was carried out on 13.5.2007 petitioner deployed some goondas who came there in two jeeps and dragged the ladies who were conducting the Dharna and assaulted them physically consequent to which Crime No. 79/2007 of Ayarkunnam Police Station was filed. According to them, they are not causing any physical obstruction but only expressing their protest in a peaceful manner.

3. The third respondent has filed a statement before this Court wherein it is stated that when the toddy shop was started, various political parties and natives of the area started agitation from 11.4.2007 and they are conducting a dharna from 4 p.m. to 6 p.m. in front of the toddy shop for the shifting of the shop from that area. When the dharna raised law and order situation, crimes were registered. It is also alleged that three persons after consuming toddy created law and order situation against which also a

crime was registered. On 13.5.2007 some persons including the son of the licensee driven a vehicle towards the agitators and stopped the vehicle near the toddy shop and the above persons were manhandled against which another crime was registered. Thus, it can be seen that various crimes are registered by the police as and when complaints are received or noticed regarding commission of offense. However, it is submitted that sufficient number of police personnel have been deployed in the toddy shop premises to prevent future occurrence of such situation leading to any law and order problem. A report has also been submitted to the District Collector. It is also stated that from 11.4.2007 onwards sufficient number of police personnels are deployed and the agitators are conducting dharna in front of the toddy shop without any obstruction to the functioning of the toddy shop.

4. After hearing both sides and after considering the rival submissions made by the parties, we direct the third respondent to see that there is no law and order situation created by any of the parties. While the party respondents may have a right to conduct the dharna in a peaceful manner, they cannot take law in their own hands and cause physical obstruction to the functioning of the toddy shop. The complaint, if any,

made to the District Collector, expressing their grievance in conducting the toddy shop in the present premises, shall be considered and disposed of in accordance with law, by the District Collector.

Subject to the above directions, the writ petition is disposed of.

P.R. RAMAN,
(JUDGE)

K. HEMA,
(JUDGE)

knc/-